

**REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application.

**35 U.S.C. § 103**

Claims 1-3, 5, 7, 9, 19-22, 24-27, 29-31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,081,299 to Kesselring (hereinafter "Kesselring") in view of U.S. Patent No. 5,835,668 to Yanagihara (hereinafter "Yanagihara").

Claims 4, 6 and 28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kesselring in view of Yanagihara, and further in view of U.S. Patent No. 5,970,668 to Higurashi (hereinafter "Higurashi").

**Claim 1 of the present application, as amended, recites:**

A method comprising:  
encoding a first frame of data;  
generating a first timestamp associated with the first frame of data, wherein the first timestamp is a full timestamp that includes complete timing information;  
transmitting the first frame of data and the associated first timestamp to a destination;  
encoding a second frame of data;  
generating a second timestamp associated with the second frame of data, wherein the second timestamp is a compressed timestamp that omits a portion of the complete timing information; and  
transmitting the second frame of data and the associated second timestamp to the destination.

In rejecting claim 1, the Office Action argues the PTS adjuster in Fig. 4 of Kesselring discloses “generating a first timestamp”, as claimed. The Office Action further argues that “wherein the first timestamp is a full timestamp” is implied because Kesselring does not preclude the timestamp being a full timestamp. The Office Action then states: “generating a second timestamp associated with the second frame of data, wherein the second timestamp includes a portion of the complete timing information...is met by PTS adjuster 430 (fig. 4) that examines the difference between the theoretical PTS 427 and the Oscillator clock 440 and outputs adjusted PTS 432.” The Office Action further acknowledges that Kesselring does not disclose whether or not the second timestamp is compressed, but relies on Yanagihara as disclosing “a data packet contain[ing] time information is time compressed and the time information is extracted from the time compressed data packet.” The Office then argues that it would have been obvious to modify Kesselring with Yanagihara “in order to save transmission bandwidth and processing time when decoding the timestamp information at the receiver end.”

Applicant disagrees and submits that the Office Action has not established a *prima facie* case of obviousness. Specifically, the Kesselring reference does not disclose or suggest a second timestamp that includes a portion of the complete timing information, as the Office argues. In fact, the Office Action does not even specifically address this subject matter, and merely states that the PTS adjuster 430 of Kesselring “examines the difference between the theoretical PTS 427 and the Oscillator clock 440 and outputs adjusted PTS 432.” In this regard, the Office Action itself recognizes that ‘Kesselring does not specifically disclose details of

the timestamp information.” (Office Action, page 10) Thus, it appears that the Office Action has mischaracterized Kesselring as disclosing a second timestamp. Applicant respectfully reminds the Office that it, not the Applicant, bears the initial burden of establishing a *prima facie* case of obviousness. (MPEP 2142) Further, to establish *prima facie* obviousness, “all the claim limitations must be taught or suggested by the prior art.” (MPEP 2143.03) Accordingly, it is only what Kesselring *teaches*, not what it *does not teach*, that is relevant to establishing *prima facie* obviousness. Therefore, the Office’s reliance on what Kesselring *does not teach* is misplaced. Nonetheless, Applicant has amended this claim to clarify that “the second timestamp is a compressed timestamp that *omits* a portion of the complete timing information.”

Also, Applicant respectfully submits that Yanagihara does not disclose or suggest a “compressed timestamp”, as understood in the context of Applicant’s disclosure. Specifically, Yanagihara discloses a “compressed data packet” that has been “compressed by a predetermined compression ratio” (Yanagihara, column 5, lines 6-9) and not “a compressed timestamp that omits a portion of the complete timing information”, as claimed.

Furthermore, even if Kesselring and Yanagihara did disclose the subject matter of this claim, which they do not, there still must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. (see *In re Jones*; see also MPEP 2143) Here, Kesselring and Yanagihara contain no such suggestion or motivation. Furthermore, the Office bears the burden of explaining “why the combination of the teachings is

proper." (MPEP 2142) Here, the Office's only attempt at such an explanation is to state that an artisan would have been motivated to provide compression "in order to save transmission bandwidth and processing time when decoding the timestamp information at the receiver end." Applicant respectfully submits that this merely describes functionality already found in Kesselring and fails to explain *why* the combination is proper. (for instance, Kesselring, columns 1-2, discuss MPEG1 and MPEG2 standards) Thus, the Office Action's stated motivation merely recites the disclosure of Kesselring and doesn't explain *why* an artisan would have found this obvious because Kesselring already provides for the MPEG standard of compressing video.

As an aside, the Office has provided a paper, available at the following link:

<http://www.uspto.gov/web/menu/busmethp/busmeth103rej.htm>

that describes proper and improper rejections made under §103(a). Particularly instructive is a portion that appears in Section IV of the paper which provides guidance in regards to communicating a proper §103(a) rejection. The pertinent part of this paper is reproduced below for the Office's convenience:

**IV. Communicating the Rationale for a Proper Rejection under 35 U.S.C. 103**

When an examiner rejects a claim as failing to meet one or more of the statutory requirements for patentability, administrative due process and 35 U. S.C. 132 require that applicant be adequately notified of the reasons for the rejection of the claim so that applicant can decide how to proceed. The statutory requirement that an Office action state the reasons for any rejection is critical to proper action taking.

In writing a rejection under 35 U.S.C. 103, the examiner should appropriately communicate:

- (1) the particular part of a reference being relied upon should be designated as nearly as practicable; 37 CFR § 1.104(c)(2);
- (2) the differences between the claimed invention and the closest prior art;
- (3) where the differences are found or suggested in the prior art;
- (4) how the teachings of the prior art are combined; and
- (5) *why the combination of those teachings would have been obvious to one of ordinary skill in the art at the time the invention was made. Do not recite the disclosure of the prior art which reads on the claimed invention as the motivation. Communicate why the references themselves, the knowledge of one of ordinary skill in the art, or the nature of the problem to be solved establishes a motivation to combine the prior art references.*

Once applicant has presented rebuttal evidence, examiners should reconsider any initial obviousness determination in view of the entire record. All the proposed rejections and their bases should be reviewed to confirm their correctness. Only then should any rejection be imposed in an Office action. The Office action should clearly communicate the Office's findings and conclusions, *articulating how the conclusions are supported by the findings.*

Here, as in the example provided above, the Office Action's stated motivation merely recites the disclosure of the prior art and is unacceptable, as demonstrated by the Office's own guidance.

Finally, modifying Kesselring by implementing the compression of Yanagihara would appear to change the principle of operation of Kesselring because it teaches comparing the Oscillator clock to the theoretical presentation timestamp (PTS) and uses the result to determine whether to use a "course adjustment mode" or "fine adjustment mode" – which results in an adjusted PTS being transmitted. (Kesselring, column 4, lines 13-62) In contrast, the compression scheme of Yanagihara involves synchronizing a system clock with time information extracted from a compressed data packet, which is then multiplied by a predetermined compression ratio to produce a replacement time in

the compressed data packet – which is then transmitted. Applicant respectfully reminds the Office that “[i]f the proposed modification of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” (MPEP 2143.01)

In view of the above discussion, the Office Action has not established a *prima facie* case of obviousness and has made an improper rejection. Accordingly, Applicant respectfully submits that claim 1, as amended, is not obvious over Kesselring in view of Yanagihara.

Given that claims 2, 3, 5, 7 and 9 depend from amended claim 1, Applicant respectfully submits that these claims are likewise allowable for at least the reasons discussed above. In addition, given the allowability of claim 1, the rejection of claims 4 and 6 over the combination with Higurashi is not seen to add anything of significance.

**Claim 19 of the present application, as amended, recites:**

A method comprising:  
receiving a first frame of data;  
receiving a first timestamp associated with the first frame of data, wherein the first timestamp is a full timestamp that includes complete timing information for the first frame of data;  
receiving a second frame of data; and  
receiving a second timestamp associated with the second frame of data, wherein the second timestamp is a compressed timestamp that omits a portion of the timing information

In rejecting claim 19, the Office Action relies on the same argument that it made in regards to claim 1. Applicant respectfully disagrees and submits that the Office Action has not established a *prima facie* case of obviousness. As discussed above, Kesselring does not disclose or suggest "wherein the second timestamp is a compressed timestamp that omits a portion of the timing information" and Yanagihara does not disclose or suggest a "compressed timestamp", as understood in the context of Applicant's disclosure. Furthermore, even if Kesselring and Yanagihara did disclose the subject matter of this claim, which they do not, the Office Action still fails to explain *why* an artisan would have been motivated to combine the teachings of Kesselring and Yanagihara. Finally, modifying Kesselring by implementing the compression of Yanagihara would appear to change the principle of operation of Kesselring.

In view of the above discussion, the Office Action has not established a *prima facie* case of obviousness and has made an improper rejection. Accordingly, Applicant respectfully submits that claim 19, as amended, is not obvious over Kesselring in view of Yanagihara.

Given that claims 20-22 and 24-26 depend from amended claim 19, Applicant respectfully submits that these claims are likewise allowable for at least the reasons discussed above.

**Claim 27 of the present application, as amended, recites:**

One or more computer-readable media having stored thereon a computer program that, when executed by one or more processors, causes the one or more processors to:

encode a first frame of data;

generate a first timestamp associated with the first frame of data, wherein the first timestamp is a full timestamp that includes complete time information;

encode a plurality of subsequent frames of data; and

generate a plurality of subsequent timestamps, wherein each of the subsequent timestamps are compressed timestamps that omit a portion of the time information.

In rejecting claim 27, the Office Action relies on the same argument that it made in regards to claim 1. Applicant respectfully disagrees and submits that the Office Action has not established a *prima facie* case of obviousness. As discussed above, Kesselring does not disclose or suggest “wherein each of the subsequent timestamps are compressed timestamps that omit a portion of the time information” and Yanagihara does not disclose or suggest a “compressed timestamp”, as understood in the context of Applicant’s disclosure. Furthermore, even if Kesselring and Yanagihara did disclose the subject matter of this claim, which they do not, the Office Action still fails to explain *why* an artisan would have been motivated to combine the teachings of Kesselring and Yanagihara. Finally, modifying Kesselring by implementing the compression of Yanagihara would appear to change the principle of operation of Kesselring.

In view of the above discussion, the Office Action has not established a *prima facie* case of obviousness and has made an improper rejection.

Accordingly, Applicant respectfully submits that claim 27, as amended, is not obvious over Kesselring in view of Yanagihara.

Given that claims 28 and 29 depend from amended claim 27, Applicant respectfully submits that these claims are likewise allowable for at least the reasons discussed above. In addition, given the allowability of claim 27, the rejection of claim 28 over the combination with Higurashi is not seen to add anything of significance.

**Claim 30 of the present application, as amended, recites:**

An apparatus comprising:  
an encoded multimedia content source; and

a decoder coupled to receive encoded multimedia content from the encoded multimedia content source, wherein the video content includes a first frame of data having an associated first timestamp, such that the first timestamp is a full timestamp that includes complete timing information for the first frame of data, and wherein the encoded multimedia content includes a second frame of data having an associated second timestamp, such that the second timestamp is a compressed timestamp that omits a subset of the timing information included in the first timestamp.

In rejecting claim 30, the Office Action argues that Kesselring discloses a second frame of data having a second timestamp such that that the second timestamp “includes a subset of the timing information included in the first timestamp.” In this regard, the Office cites decoder 135 Fig. 1A stating that it “receives frames of video data and PTS information from the encoder 100 through the connection 120, Figs. 1A and 4.” The Office Action then relies on the same argument that it made for claim 1 regarding the first timestamp being a full timestamp and the second timestamp being compressed timestamp.

Applicant respectfully disagrees and submits that the Office Action has not established a *prima facie* case of obviousness. Specifically, the Office Action does not even specifically address “the second timestamp is a compressed timestamp that omits a subset of the timing information included in the first timestamp.” In this regard, the Office Action merely recites decoder 135 of Fig. 1A that receives information from the encoder 100, which has nothing to do with the second timestamp, as claimed. In fact, as noted above, the Office Action itself acknowledges that “Kesselring does not specifically disclose details of the timestamp information.” Thus, it appears that the Office Action has mischaracterized Kesselring as disclosing a second timestamp, as claimed. Accordingly, it is only what Kesselring *teaches*, not what it *does not teach*, that is relevant to establishing *prima facie* obviousness. Nonetheless, Applicant has amended this claim to clarify that “the second timestamp is a compressed timestamp that omits a subset of the timing information included in the first timestamp.”

Furthermore, as discussed above, Yanagihara does not disclose or suggest a “compressed timestamp”, as understood in the context of Applicant’s disclosure. Furthermore, even if Kesselring and Yanagihara did disclose the subject matter of this claim, which they do not, the Office Action still fails to explain *why* an artisan would have been motivated to combine the teachings of Kesselring and Yanagihara. Finally, modifying Kesselring by implementing the compression of Yanagihara would appear to change the principle of operation of Kesselring.

In view of the above discussion, the Office Action has not established a *prima facie* case of obviousness and has made an improper rejection.

Accordingly, Applicant respectfully submits that claim 30, as amended, is not obvious over Kesselring in view of Yanagihara.

Given that claim 31 depends from amended claim 30, Applicant respectfully submits that this claim is likewise allowable for at least the reasons discussed above.

**Conclusion**

Claims 1-7, 9, 19-22 and 24-31 are in condition for allowance. Applicant respectfully requests reconsideration and issuance of the subject application. Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.

Respectfully Submitted,

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By: Steven R. Sponseller

Steven R. Sponseller  
Reg. No. 39,384  
(509) 324-9256